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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,824

03/17/2004

Son-hae Jung

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09/08/2006

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EXAMINER

EVANS, FANNIE L

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/801,824

Applicant(s)

JUNG, SON-HAE

Examiner

F. L. Evans

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 8, 10 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 031704,061505.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statements

The prior art cited in the information disclosure statements filed on March 17, 2004 and June 15 2005 has been considered.

Claim Objections

Claims 8, 10 and 12, are objected to because of the following informalities: In line 1 of claim 8, “method” should be --apparatus--. In line 1 of claims 10 and 12, “apparatus” should be --method--. Attention is drawn to the fact that claim 4 is an apparatus claim and that claims 9 and 11 are method claims. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. § 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 7, 9 and 10 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The invention set forth in method claims 1, 7, 9 and 10 does not result in the transformation of an article or physical object nor does the invention provide a practical application that produces a useful, concrete and tangible result. Merely generating (lines 8 and 9 of independent claims 1 and 9) would not appear to be sufficient to constitute a tangible result, since the outcome of the generating step has not been used in a disclosed practical application nor made available in such a manner that it's usefulness in a disclosed practical application can be realized. See, Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, 1300 OG 142,

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November 22, 2005. Attention is directed to section IV. of the guidelines, "DETERMINE WHETHER THE CLAIMED INVENTION COMPLIES WITH THE SUBJECT MATTER ELIGIBILITY OF 35 U.S.C. SEC. 101." In part b. "Practical Application That Produces a Useful, Concrete, and Tangible Result" under section IV, the third sentence states 'In determining whether the claim is for a "practical application," the focus is not on whether the steps taken to achieve a particular result are useful, tangible, and concrete, but rather that the final result achieved by the claimed invention is "useful, tangible, and concrete.'"

The dependent claims do not appear to add any real world application required by the guidelines.

Claim 19 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claim 19 sets forth a display comprising a list box to display one or more color reappearance peculiarity profiles. The displayed list box is an image which is printed matter. Printed matter is non-statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 7-10, 14 and 15 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Schwartz (US 6,075,888).

As to independent claims 4 and 14, Schwartz discloses an apparatus for generating a color reappearance peculiarity profile, which is included in a computer (12) connected to a color reappearance

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device (14), comprising: a color standard scale output instructing unit (12, sentence bridging columns 3 and 4) which instructs the color reappearance device (14) to output a color standard scale (16) having a set color information value; a color information difference value calculating unit (12, lines 10-24 of column 5) which calculates a color information difference value between an actual color information value corresponding to a measured color information value of the outputted color standard scale and the set color information value; and a color profile generating unit (12, lines 10-13 of column 4) which generates the color reappearance peculiarity profile instructing the color reappearance device (14) to reappear optimized color using the calculated color information difference value.

As to dependent claim 8, the color reappearance device is one of a color printer, a color copying machine, a monitor and a scanner (lines 4 and 5 of column 4).

As to dependent claim 15, the color reappearance peculiarity profile is one of an international color consortium file or an image matching file (lines 24-32 of column 11).

The steps of the method set forth in claims 1, 7, 9 and 10, are performed by the apparatus of Schwartz.

Claim 19 is rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Namikata (US 2003/0193688 A1).

Namikata discloses a display (Fig. 6) for use in a computer to reappear color, comprising: a list box (604) to display one or more color reappearance peculiarity profiles to reappear an optimized color by performing a color reappearance operation using a specified color reappearance peculiarity profile selected by a user in the displayed list box of the one or more color reappearance peculiarity profiles. Applicant's attention is directed to Namikata in its entirety with particular attention directed to paragraphs [0041], [0049] and [0059]-[0063].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5, 6, 11-13 and 16-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schwartz (US 6,075,888) over Chen et al (US 6,947,174 B1), Cholewo et al (2004/0150858 A1) and Weichmann et al. (US 6,580,524 B1)

Schwartz discloses a method and apparatus for generating color reappearance peculiarity profiles for color reappearance devices. See the rejection of claims 1, 4, 7-10, 14 and 15, above. Schwartz does not teach the steps of and means for generating a plurality of color reappearance peculiarity profiles and displaying a list of the color reappearance peculiarity profiles to enable a user to select one of the profiles in the displayed list.

In lines 49-55 of column 1, Chen et al disclose that color reappearance devices have a plurality of color reappearance peculiarity profiles.

Cholewo et al and Weichmann et al teach user selection of a color reappearance peculiarity profile from a plurality of color reappearance peculiarity profiles for use with a color reappearance device. See paragraph [0006] of Cholewo et al and lines 57-67 in column 7 of Weichmann et al.

At the time the invention was made, it would have been obvious to one with ordinary skill in the art to use the method/apparatus of Schwartz to generate a plurality of color reappearance peculiarity profiles and to use an appropriate user interface to select one of the profiles for use with a color reappearance device. The plurality of color reappearance peculiarity profiles would have enabled the device to accurately operate under different operating conditions, as recognized in lines 49-55 of column 1 of Chen et al. The use of a user interface to select an appropriate profile would not have involved an inventive step. See lines 8 and 9 of paragraph [0006] of Cholewo et al and lines 57-67 in column 7 of

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Weichmann et al.

Additional Prior Art

Edge (US 5,781,206) and Haro (US 6,762,858 B2) disclose devices/methods for generating color reappearance peculiarity profiles.

Fax/Telephone Numbers

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (571) 272-2414.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


F. L. EVANS
PRIMARY EXAMINER
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August 30, 2006